

REMARKS

This Amendment is submitted in response to the outstanding Office Action dated January 22, 2004 wherein the Examiner rejected claims 1, 3, 7 and 9-20. Claims 1 and 7 were rejected as being anticipated by Rowe et al. U.S. Patent No. 5,623,613 (hereinafter "Rowe"). The Examiner further rejected Claims 1, 3-7, and 9-20 under 35 U.S.C 103a as being unpatentable over Okhura et al. U.S. Patent No. 5,737,028 (hereinafter "Okhura"). Reconsideration of these rejections in view of the above amendments and following remarks is respectfully requested.

The rejection under 35 U.S.C. Section 102

In the January 22, 2004 Office Action, the Examiner rejected claims 1 and 7 under 35 U.S.C. Section 102(b) as being anticipated by United States Patent No. 5,623,613 to Rowe. The Applicants respectfully traverse this rejection on the grounds that Rowe does not recite that the first display area is orthogonal to the second display areas and wherein the connection indicator traverses both the first display area and the second display area.

It is axiomatic that a prior art reference anticipates the claimed invention under 35 U.S.C. Section 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP Section 2131. See, *In re King*, 231 USPQ 126, 138 (Fed. Cir. 1986) citing with

approval, *Lindemann Maschinenfabrik v. American Hoist and Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984)); *In re Bond*, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. MPEP Section 2131. *In re Donohue*, 766 F.2d 531, 534, 226 USPQ 619, 621 (Fed. Cir. 1985).

With respect to any of Claims 1 and 7, a determination of anticipation in accordance with Section 102 requires that each feature claimed therein be described in sufficient detail in Row to enable one of ordinary skill in the art to make and practice the claimed invention.

The Applicants direct the Examiner's attention to Claim 1 of the application, which contains the following unique and novel limitations:

1. A method of displaying a multi-level menu, comprising the steps of:

displaying menu items of a first menu level in a first display area wherein the menu items of the first menu level have a fixed position relative to a third display area;

displaying, in response to a selection of a menu item of the first menu level, menu items of a second menu level in a second display area, the second menu level being subordinate to the selected menu item of the first menu level, wherein the second display area has a fixed orthogonal position with respect to the first display area irrespective of a position of the selected menu item of the first menu level, and wherein the first and second display areas extend along different orthogonal borders of the third display area; and

displaying a connection indicator connecting the selected menu item of the first menu level and a menu item of the second menu level such that the connection indicator traverses both the first display area and the second display area around the different orthogonal borders of the third display area.

The Applicants respectfully assert that the above-emphasized limitations are not shown in the Rowe reference. The cited portions of the Rowe reference do not show that the first and second display areas are orthogonal to one another and the connection indicator traverses both the first display area and the second display area. Applicants take this opportunity to explain Applicants' invention. Applicants have claimed a unique and novel method of structuring menus such that the menus do not cover the display area. The menu structure includes at least three display areas. The first and second display areas are orthogonal to one another and extend along different orthogonal borders of a third display area where typically the main activity at hand is displayed. This provides maximum viewing area for the third display area. The first and second display areas display first and second menu levels, the second menu level being subordinate to the first menu level. In order for the user to see which menu item in the first menu level is associated with the menu item in the second menu level a connection indicator is used. Instead of popping up the second menu level right under or next to the item in the first menu level it is associated with (which would cover the display area) the connector traverses along the border of the first display area and the second display area to connect the item in the first menu level with the item in the second menu level. This prevents overlapping the display area with the menu structures.

The cited portions of Rowe show three display areas but the two menus are displayed parallel to one another so, as shown in Figs. 2-8, the viewing area is relatively small. In addition, the connector does not traverse along a border of the first display area and a border of the second orthogonal display area. Accordingly, Applicants respectfully submit that the claims are allowable over Rowe.

**The rejection under 35 USC Section 103**

On Page 3 of the January 22, 2004 Office Action, the Examiner rejected claims 1, 3-7, and 9-20 under 35 U.S.C. Section 103(a) as being unpatentable over Ohkura. The Applicants respectfully traverse the rejections of claims 5, 14 and 20 under 35 U.S.C. Section 103(a) on the grounds that in Ohkura the menu items of the first menu level do not have a fixed position relative to the third display area and therefore there is no need to have a connection indicator that traverses both the first display area and the second display area around the different orthogonal borders of the third display area.

During *ex parte* examinations of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP Section 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis is to deny

patentability to a claimed invention is always upon the Patent Office. MPEP Section 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of non-obviousness. MPEP Section 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 USPQ 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not be based on an applicant's disclosure.

MPEP Section 2142.

For the reasons set forth below Applicants respectfully submit that the Patent Office has not established a prima facie case of obviousness with respect to Claims 1, 3-7, and 9-20 of the Applicants' invention. The Applicants respectfully assert that the Okhura reference does not teach or suggest that the menu items of the first menu have a fixed position relative to the third display area. In Okhura, the menu items of the first menu move depending on the selected menu item. For example, the menu items "NEWS" is selected in Fig. 16 so the "NEWS" menu item moves to the left of the screen so the subordinate pop up menu, with the subordinate menu items, doesn't cover the middle of the third display area. In Fig. 18 the menu item "SPORTS" is selected so this menu item moves to the left of the third display area and the "NEWS" menu item is now in the middle of the list of first menu items. These menu items are not fixed relative to the third display area.

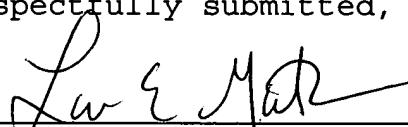
Accordingly, there is no need in Okhura to have the connection indicator that traverses both the first display area and the second display area around the different orthogonal borders of the third display area. The problem with Okhura's method is that the menu items are not in their standard positions so the user must scan the entire menu to select the desired menu item because it keeps changing position. It therefore would not have been obvious to use such a connection indicator because it is not necessary in the Okhura design.

In Applicant's invention, Applicant designed a fixed menu system where the menu items of the first menu list are fixed relative to the third display area. In order to show some connection between the two selected menu items without obscuring the third display area, Applicants have created a connection indicator that does not obscure the third viewing area. Applicants therefore respectfully submit that the claims are allowable over Okhura.

Entry of this Amendment reconsideration of these rejections and allowance of all the claims is respectfully requested.

If any issues arise, or if the Examiner has any suggestion for expediting allowance of this Application, the Applicants respectfully invite the Examiner to contact the undersigned at the telephone number indicated below or at Laurie.Gathman@Philips.com.

Respectfully submitted,

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On April 22 2004  
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